The constitutionality of license fees exacted as a condition precedent to the transaction of intrastate business by a corporation engaged also in interstate commerce has often been attacked. *New York State* v. *Roberts* (1893) 171 U. S. 658; *N. C. & St. L. Ry. Co.* v. *Alabama City* (1901) 134 Ala. 414; *United States Exp. Co.* v. *Allen* (1889) 39 Fed. 712. Where such a fee is required, it must appear that the fee is exacted only for the privilege of doing intrastate business and that the corporation is free to withdraw from this business and pursue its interstate business untramelled. Otherwise the statute will be construed as a veiled attempt to tax interstate commerce. *Pullman Co.* v. *Adams* (1903) 189 U. S. 420. But when this is established, the validity of such a tax would seem undoubted, even though it be directed to be paid from the proceeds of interstate commerce. *Allen* v. *Pullman Co., supra; Pullman Co.* v. *Adams, supra.* This principle is well illustrated in two cases recently decided, *State* v. *Western Union Tel. Co.* (Kan. 1907) 90 Pac. 299, and *State* v. *Pullman Co.* (Kan. 1907) 90 Pac. 319. A license fee, computed upon their total capital stock, was required from foreign corporations as a condition precedent to their doing business within the state. This tax was declared valid, even though it appeared that if intrastate business were discontinued, certain offices from which telegrams were sent into other states would have to be closed, not being supported by the interstate business alone. As no support is due to interstate business from intrastate business, and as the burden imposed upon interstate commerce was merely incidental, the decision seems to be sound, and the result reached better than the contrary holding in *United States Exp. Co.* v. *Allen, supra.*

THE TAXATION OF INTANGIBLE MOVABLES.—At the common law the maxim that movables follow the person was applied also in matters of taxation. *Bullock* v. *Guilford* (1887) 59 Vt. 516. But with the increase in the importance and distribution of personalty, the jurisdictions giving protection to a non-resident's property, enacted legislation taxing such property. *Boston Loan Co.* v. *Boston* (1884) 137 Mass. 332; 6 COLUMBIA LAW REVIEW 190. And it has lately been declared that the taxation at the owner's domicil of tangible personalty existing in another jurisdiction was in contravention of the Fourteenth Amendment. *Union, etc., Co.* v. *Kentucky* (1905) 199 U. S. 194; 6 COLUMBIA LAW REVIEW 190; 7 id. 309. The legislation taxing a non-resident's tangible property was followed by attempts to tax his credits. Such acts were at first sustained by analogy to the taxation of corporeal chattels in cases where the credits had assumed a concrete and tangible form. Bonds and deeds at common law were considered as in themselves property; *Blackstone* v. *Miller* (1903) 188 U. S. 189, 206; *Beers* v. *Shannon* (1878) 73 N. Y. 292, 299; and their presence was deemed sufficient to justify taxation. *People* v. *Ogdensburg* (1872) 48 N. Y. 390; *Missouri* v. *County Court* (1871) 47 Mo. 594. On this analogy were taxed, though the creditors in each case were non-residents, municipal bonds, *Western Assurance Co.* v. *Halliday* (1901) 110 Fed. 259, mortgages considered as realty, *Mumford* v. *Sewall* (1883) 11 Ore. 67, notes secured by mortgages on lands within the jurisdiction, *Poppleton* v. *Yamhill County*

(1890) 18 Ore. 377, negotiable bonds, *Walker* v. *Jack* (1898) 60 U. S. App. 124, and promissory notes. *Arosin* v. *London etc. Co.* (Minn. 1900) 83 N. W. 339; contra, *Board of Commrs.* v. *Cutter* (1877) 3 Colo. 349; *Lansborough* v. *County Commrs.* (1881) 131 Mass. 424. While this principle was not founded in reason, it led to another development which proved more acceptable to a majority of the courts. Where a non-resident left money with an agent to invest and reinvest, the agent was regarded as the "trustee" of the credits, which might, therefore, be considered as having their situs with the agent; *Catlin* v. *Hull* (1849) 21 Vt. 152; and other courts, disregarding the fiction of trusteeship, declared that the debts had been "localized," and had acquired a "business situs." *Goldgart* v. *People* (1883) 106 Ill. 25; *Billinghurst* v. *Spink County* (1894) 5 S. D. 84; *In re Jefferson* (1886) 35 Minn. 215; *Finch* v. *York County* (1886) 19 Neb. 50; *Redmond* v. *Commrs.* (1882) 87 N. C. 122.

Such was the law in the state courts when at last the United States Supreme Court was forced to take cognizance of the divergencies from the principle that intangible movables, at least, follow the person. *Liverpool etc. Ins. Co.* v. *Board of Assessors* (1892) 44 La. Ann. 760; *People* v. *Park* (1863) 23 Cal. 139; *State* v. *Ross* (N. J. 1852) 3 Zab. 517. This principle it had maintained in *State Tax on Foreign Held Bonds* (1872) 15 Wall. 300, deciding that the interest owing on bonds owned by a non-resident but secured by domestic mortgages had no situs within the jurisdiction for purposes of taxation, and this was stated as sheer matter of law, despite the fact that economic arguments were brought to bear on the Court. But lately, in *Savings and Loan Society* v. *Multnomah County* (1898) 169 U. S. 421, it has held, yielding to the tendency evidenced by state legislation and decisions, that a mortgage securing a foreign-held bond is taxable within the jurisdiction as realty. Furthermore, it followed the theory of taxation based upon the existence of concrete and tangible forms within the jurisdiction; *New Orleans* v. *Stempel* (1900) 175 U. S. 309; *Scottish etc. Ins. Co.* v. *Bowland* (1904) 196 U. S. 611; while the theory that debts are "localized" in the custody of an agent was also adopted. *Bristol* v. *Washington County* (1900) 177 U. S. 133. The Supreme Court thus availed itself of the rough classification attempted by the state courts; but in two recent cases it was compelled further to define the constitutional limits of taxation. A foreign insurance company doing business in Louisiana loaned money to its insured, taking the policies as collateral. These loans were recommended by a resident agent, but required approval from the Home Office from which a check was issued, and to which the borrowers' notes and policies were sent, so that these concrete evidences of indebtedness were only momentarily in Louisiana. Notwithstanding this, it was held that a tax by that state as for "credits, money loaned, and bills receivable" would be sustained. *Metropolitan Life Ins. Co.* v. *New Orleans* (1907) 205 U. S. 395. In a slightly later case, notes given by residents of Ohio to a resident of New York were held by the latter's agent in Indiana. It was held that the mere presence of the notes within that state did not bring them within its jurisdiction for purposes of taxation. *Buck* v. *Beach* (1907) 206 U. S. 392.

Buck v. *Beach, supra*, disposes finally (except with regard to municipal

bonds) of the doctrine, apparently still countenanced as a concurrent theory of taxation in *Board of Assessors* v. *Comptoir National* (1903) 191 U. S. 388, that the presence of concrete evidences of a debt justifies the exercise of the power of taxation thereover. *Metropolitan Life Ins. Co.* v. *New Orleans, supra,* however, sets up another test, which, since *Buck* v. *Beach, supra,* must be regarded as the only one: that where the credits are acquired, not collaterally in the course of business carried on in other states, but their acquisition constitutes the business itself carried on within the state, then they are taxable where this business is carried on. To this may, perhaps, fairly be added that where debts are owned collaterally to carrying on a business from within the jurisdiction, they are also taxable where the business is carried on, though by a non-resident. Cf. *Adams Express Co.* v. *Ohio* (1897) 166 U. S. 185, 223.

The case last cited clearly shows the change in the attitude of the Supreme Court since *State Tax on Foreign Held Bonds, supra,* as the reasons compelling the decision in the later case were frankly economic or political. With forces of the latter kind actuating the adjudications, it is impossible at present to hope for a consistent legal theory from the activities of the national courts. The drift of the decisions as shown by *Metropolitan Life Ins. Co.* v. *New Orleans, supra,* seems to be toward permitting credits to be taxed where they can be most easily ascertained, provided the taxing jurisdiction offers a substantial meed of protection as a consideration for the tax. And whether the doctrine of *Metropolitan Life Ins. Co.* v. *New Orleans, supra,* is or is not to be regarded as the final test which all future taxing acts are to endure, it is plain that the avoidance of double taxation of intangibles cannot be arrived at, as in the case of tangibles, through the decisions of the Supreme Court, because of its precedents taxing intangibles at the domicil of their owner. *Buck* v. *Beach, supra,* 401; *Kirtland* v. *Hotchkiss* (1879) 100 U. S. 491. It can at best only restrain the extravagant actions of state legislatures as in *Buck* v. *Beach, supra;* cf. 5 COLUMBIA LAW REVIEW 50; and protection from unjust double taxation must be found as heretofore in the generous interpretation of state statutes by the courts of the states themselves. *People ex rel. Jefferson* v. *Smith* (1882) 88 N. Y. 576; *Wilcox* v. *Ellis* (1875) 14 Kan. 588; *Poppleton* v. *Yamhill County, supra.*

MODERN DEVELOPMENTS OF THE JURISDICTION OF EQUITY.—The principle, followed so long by courts of equity, that Chancery interferes only to protect rights of property, has recently lost much of its vigor because the courts, though often professing allegiance to the rule, have stretched the term "property" almost beyond recognition in the effort to do justice in the constantly arising situations where personal and political rights demand adequate protection. Accordingly, the injunctive method of abating nuisances, originally designed to prevent injuries to property, has been used where what was actually protected was the individual's personal comfort, *Soltau* v. *DeHeld* (1851) 2 Sim. N. S. 133, health, *Dennis* v. *Eckhardt* (Pa. 1862) 3 Grant Cas. 390, or safety, *McKillopp* v. *Taylor* (1874) 25 N. J. Eq. 139. For the nature of rights in a dead body, in which there is no purely proprietary right, see 5 COLUMBIA LAW REVIEW 543, the vague term